(54)

HIGH COURT OF JUDICATURE, CHHATTISGARH AT BILASPUR

Writ Petition No. 2728 of 2003

PETITIONER: Agocharanand

-Versus-

RESPONDENTS : State of Chhattisgarh & others

POST FOR ORDER ON 15th SEPTEMBER, 2003

Sd/-
L.C.BHADOO
Judge

(55)

HIGH COURT OF JUDICATURE, CHHATTISGARH AT BILASPUR

Writ Petition No. 2728 of 2003

PETITIONER: Agocharanand S/o Shri Sant Gurdev Satpal R/o Village – Bandhamuda, Police Station – Gaurela, Disttt. Bilaspur(C.G.)

Versus

RESPONDENTS :

1. State of Chhattisgarh, Through Secretary, Ministry of Home, Govt. of Chhattisgarh, Mantralaya, DKS Bhawan, G. E. Road, Raipur (C.G.)
2. State of Madhya Pradesh, Through Secretary, Ministry of Home, Government of M.P. Mantralaya, Vallabh Bhawan, Bhopal (M.P.).
3. Director General of Police, Madhya Pradesh, Police Head Quarters, Bhopal (M.P.)
4. Director General of Police, Chhattisgarh, Police Head Quarters, Raipur (Chhattisgarh)
5. Central Bureau of Investigation, Through Director General, C.B.I. New Delhi.
6. Shri Ajit Pramod Kumar Jogi, S/o Shri K.P.Jogi, aged about 55 years, Chief Minister of Chhattisgarh, R/o Civil Lines, Raipur (C.G.).
7. District Magistrate, Bilaspur (C.G.)
8. Superintendent of Police, District Bilaspur, Bilaspur (C.G.).
9. Secretary, Home Department, State of Chhattisgarh, Mantralaya, D.K.S. Bhawan, Raipur (C.G.).

Petitioner by Shri V. G. Tamaskar, Advocate.

Respondents/State of Chhattisgarh by Dr. N. K. Shukla, Additional Advocate General.

Before: Hon'ble Shri L.C. Bhadoo, J.

O R D E R

(Passed on 1st September, 2003)

1. The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India and has challenged the order dated 13.11.2002 Annexure P/12, order dated 4.12.2002 Annexure P/14 and Annexure P/15 passed in Criminal Case No. 2/2002 by the District Magistrate, Bilaspur and to quash the order of the appellate authority and to direct the Respondents No. 1 to 5 to investigate as to why and under what circumstances the daughter of Respondent No.6 committed suicide.

2. The petitioner's case is that he is a citizen of India and professes Sanatan Dharma. He is resident of Pendra Road, his feelings hurt because of illegal and deliberate cow slaughter and sale of beef in Pendra Road and the villages around and also in village Marwahi. Therefore, against this activity agitation was launched by the local residents and supported by Bhartiya Janta Party. The petitioner made a complaint against Amin Khan Tailor but no action was taken by the police. On 9.10.2002 a complaint against named culprits Ahmed Musalman and his son Mohammad alleging their involvement in cow slaughter and sale of beef was lodged by Rajesh Agarwal. Two more complaints were also made by Rajesh Agarwal. The petitioner was actively supporting the anti cow slaughter movement.
3. The Respondent No.6 converted to Christianity. The petitioner's involvement in anti cow slaughter movement in villages like Marwahi there was mass awakening of Hindus who are followers of Sanatan Dharma, therefore the Respondent No.6 started pressurizing the district authorities to take action against the petitioner, therefore the petitioner was served with the concocted and fabricated show cause notice dt. 13.11.2002 and a criminal case No. 2/2002 relating to State Vs. Agocharanand was registered in the Court of District Magistrate. The tutored witnesses deposed against the petitioner and the proceeding was conducted in a hot haste manner. Against the order dt. 4.12.2002 the petitioner preferred an appeal before the Secretary, Home Department which has been dismissed in limine. The daughter of the Respondent No.6 committed suicide in mysterious circumstances whom he first buried at Indore (M.P.) and later ventured to dig grave and reburied at village- Marwahi (C.G.). But no steps were taken by the State of Madhya Pradesh or State of Chhattisgarh, though it needs to be investigated by an independent agency like C.B.I. because nobody is above the law.
4. I have heard learned counsel for the parties.
5. Learned counsel for the petitioner submitted that the cases registered against the petitioner are false and fabricated. Since the petitioner agitated against the cow slaughter and sale of meet of beef which enraged the Respondent No.6 and on whose behest the District Magistrate initiated the proceedings against the petitioner and passed the impugned order.
6. I have perused the order passed by the learned District Magistrate, Bilaspur dt. 4.12.2002. A perusal of the order reveals that the Superintendent of Police Bilaspur filed a complaint under Section 5 of the State Security Act (Rajya Suraksha Adhiniyam), 1990 (for short 'Act, 1990) to the effect that the petitioner is resident of district – Satna (M.P.) and since last 1½ years he has started residing in village- Badhamuda under the jurisdiction of Police Station –Gourela. He is playing with the religious

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feelings and started provoking to the people of the area against the persons of other community and thereby the incidents of rioting, criminal activities, abusing and arsoning are on increase and the communal harmony is also being destroyed by the petitioner and the law and order problem is also increasing and the general public of the area is also terrified. It has been mentioned in the order that 9 criminal cases since 25.8.2002 have been registered against the petitioner under various sections of the I.P.C. like 294, 506, 147, 148, 427, 506-B, 436, 511, 507, 509, 153, 298 and sections 151, 107, 116(3) of the Code of Criminal Procedure. On 5th October 2002 the petitioner entered the shop of Hamiddulla and created communal problem and the petitioner is involved in inducing and provoking the Hindus against Muslims which is spoiling the religious fabric of the community. He is involved in the rioting and arsoning therefore the District Magistrate reached to the conclusion that there are grounds to take action against the petitioner under section 5 (a) and (b) of the Act, 1990 and accordingly a show cause notice under section 8 of the Act, 1990 was issued to the petitioner for calling his explanation of which the petitioner filed a reply on 21.11.2002 and the petitioner was allowed to adduce the evidence. After considering the evidence of both the parties learned District Magistrate reached to the conclusion that as per the complaint of Superintendent of Police and considering the evidence adduced by both the parties since last 1½ years after coming of the petitioner he is provoking the general public and exploiting their religious sentiments and communal disharmony amongst the communities as a result of which the offences of rioting, arsoning, abusing and criminal intimidations are on increase and the law and order problem is also increasing and the people of the area are feeling unsecured. In the circumstances, learned District Magistrate in order to maintain the law and order situation reached to the conclusion that action under section 5 of the Act, 1990 is essential and after exercising the powers he passed the impugned order directing the petitioner to leave revenue district Bilaspur and adjoining revenue districts i.e. Janjgir Champa, Korba, Korea, Kawardha, Durg and Raipur within 24 hours for a period of one year and not to enter in these districts for one year from the date of the order i.e. 4.12.2002.

7. A perusal of the above order shows that number of criminal cases are registered and pending against the petitioner and based on the evidence adduced by the police the District Magistrate was satisfied with the report of the Superintendent of Police and reached to the conclusion that the petitioner was engaged in provoking, instigating the communal feelings of Hindus and he is creating disharmony amongst the religious communities

as a result of which the incident of rioting, arsoning and criminal intimidations are increasing and in order to maintain the law and order the District Magistrate passed the above order.

8. Learned counsel for the petitioner could not point out any such infirmity or illegality in the impugned order which may require interference by this Court in the impugned order. In the writ jurisdiction this Court is not entitled to re-appreciate the evidence or replace the findings of subordinate Court by its own findings unless and until the petitioner is able to establish that the principles of natural justice have been violated or subordinate Court has exceeded its jurisdiction which is vested in it or has exercised the jurisdiction which does not vest in it or if the impugned order is allowed to exist then it would be continuing grave injustice to the petitioner. The petitioner has not been able to point out any of these points therefore this Court cannot interfere in the order of the District Magistrate or the order of the appellate authority. More over the order of the appellate authority has also not been produced.

9. As far as the question of passing an order and directing the C.B.I. to investigate into the circumstances under which the daughter of Respondent No.6 had committed suicide is concerned, the petition of the petitioner is wholly baseless and it lacks in the material particulars. General and bald allegations have been levelled against the Respondent No.6. Even it has not been mentioned as to when the incident took place or how many years back the incident took place, whether any action was initiated and what are the grounds on which this Court is required to go into the details of that incident. More over the incident had not taken place within the jurisdiction of this Court. From the facts and circumstances of the case it seems that the allegations of the petitioner are stemming from the personal vendetta and the petitioner want to settle the score by misusing judicial process. The judicial process cannot be allowed to be abused and converted into an instrument to blackmail to wreck some personal vengeance for settling and scoring personal vendetta and cannot be used as counter blast. A heavy duty lies on the shoulders of the advocates. While drafting and filing such petition they are required to maintain not only the decorum and dignity of the Court but the profession of advocacy as well. The members of the Bar should keep in mind the professional ethics, instead of levelling personal allegations and going so low without any supporting material, they should confine their pleadings to the facts and law only. The judicial process should not be misused or permitted to be abused and converted into an instrument to blackmail or settling personal vendetta by way of some counter blast. The allegations levelled in this petitioner are stemming from the ulterior motive to

humiliate, disgrace and demoralize the Respondent No.6.It is expected from the lawyers to confine the pleadings to the law and the facts involved in the matter instead of leveling unfounded and baseless allegations. This petition contains bundle of allegations without having any bonafides.

10. Even otherwise two different issues have been mixed in this petition. One is required to file separate petition for each cause of action. The second point has been raised in this petition without having any connection and nexus with the order passed by the District Magistrate regarding externment.

11. In view of the above, I do not find any substance in this petition which is liable to be and is dismissed. This Court is refraining itself from observing against the petitioner as well as the Advocate who had given legal advice to the petitioner for filing this baseless petition.

Sd/-
L.C.BHADOO
Judge

Thakur